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from the director's desk

carol j leighton

Advertising Rules - Revisited

Webster's II New College Dictionary defines "advertising" as "(t)he act of calling public attention to a product or business". **The Maine Brokerage Act (Title 32, Chapter 114) requires that all brokerage services, including advertising, be made in the agency's name and on the agency's behalf.** In addition, Chapter 330, Section 1 of the Commission's rules sets the standard for real estate brokerage advertising. The rule sets two standards: (a) All real estate brokerage related advertising shall be made in the agency's name, specifically the trade name if the agency has licensed a trade name, and (b) the advertising shall be free from deception and shall not misrepresent any real estate, terms, values, policies, or services.

These standards apply to all advertising mediums, i.e. newspapers, magazines, television, radio, for sale signs, business cards, websites and other electronic advertising mediums. The current standards have been in place for over 15 years. The Commission has reviewed the current rule as it applies to the various forms of advertising and determined that the standards are appropriate for all. Regardless of the advertising medium all brokerage-related advertising must be in the agency's name, trade name if the agency has licensed a trade name, and be free from deception. Sounds pretty simple, right? Over the past year, the Commission has received inquiries from licensees and the public regarding brokerage-related advertising, both print and electronic mediums. What follows is a series of questions from licensees and Commission responses regarding advertising issues. Do they sound familiar?

Q. I'm an associate broker with XYZ Realty. I've created my own website and want to promote my listings; do I need to include the agency's name if I'm creating the site?

A. A website promoting the sale or purchase of real estate is advertising on behalf of the agency and must be made in the agency's name. Who pays for the advertising or creates the website is immaterial – the purpose of the advertisement is the issue and the purpose of this website is to procure prospective real estate buyers or sellers. Oh, and by the way they are not your listings – sales agents, associate brokers and brokers are licensed to act on the agency's behalf – but – only the agency can contract with a buyer or seller to provide brokerage services.

continued page 2

CORE COURSE REMINDER

Offers & Counter Offers is the mandatory core continuing education course as of March 1, 2004. Licensees who renew an active license or activate an inactive license must complete this course in addition to the remaining hours required. No other course may be substituted for **Offers & Counter Offers** and licensees who have completed the old core course, *Fair Housing & Diversity*, may not use it to fulfill the core requirement. However, licensees *may* claim *Fair Housing & Diversity* as three hours of regular continuing education providing it was completed within the licensee's current two-year renewal period.

For those renewing an active license, 15 hours of Commission approved continuing education are required. The 15 hours must be completed within the current two-year renewal period and include 3 hours for the core course. The remaining 12 hours may be for elective courses of the licensee's choosing providing the courses are approved by the Commission for continuing education.

For those activating an inactive license, the number of hours required will depend on the length of time the license has been inactive (see chart below). All hours must be completed within the two years preceding the date of activation; if an exam is required, it must be passed within one year of activation.

If Your License is Inactive:	Requirement to Activate
Up to 2 years	15 Hrs CE
More than 2 but less than 4 yrs	22 Hrs CE
More than 4 but less than 6 yrs	30 Hrs CE
Six or more years	50 Question Law Exam

in this issue

<i>director's desk</i>	1
<i>inactive licenses</i>	2
<i>current cases</i>	3

Director's Desk continued

Advertising Rules - Revisited

Q. My company wants to create a website with multiple pages – do I need to have the agency's name on each page?

A. If the pages can be accessed without linking to the first page (where agency name and contact information is located) then each page must include the agency's name and contact information – the issue here is each page may constitute a separate and distinct advertisement.

Q. I'm a broker with XYZ Realty can I include my name and phone number on a for sale sign?

A. Yes - provided the agency name and phone number are prominently listed. Home phone numbers, whether on a for sale sign, a newspaper advertisement or any other form of advertising, must indicate "home phone". Remember all brokerage activity is offered under the agency name and on the agency's behalf. In addition, the Brokerage Act requires that each agency have a fixed and definite place of business where its designated broker, affiliated licensees and employees may be reached without unreasonable delay. Encouraging consumers to contact a licensee by phone must refer the consumer to the agency phone or if another number is included, the ad must identify the additional phone number.

Q. I'm a broker with XYZ Realty and I want to promote an incentive program to increase the number of listings. My plan is to offer \$1,000, to be paid at closing, to each new seller who lists with me within the next 30 days. Is this ok?

A. Maybe. If the designated broker consents to the promotion, the promotion is made on the agency's behalf and the inducement complies with Chapter 330, Section 11 of the Commission's rules. An inducement to list must not distort the value of the property (i.e. cost of inducement added to the price of the property), or the service to be provided (i.e. limited brokerage representation for sellers opting for the \$1,000) and must be free from deception. The offer to pay \$1,000 to the seller at closing to any seller who lists property within 30 days may be fraught with unintended deceptions. Does the promotion clearly identify any and all limitations? For example:

- Is the \$1,000 offer to any licensee in the agency or just one licensee?
- Is the offer of \$1,000 available for any type of property – or, is the offer limited to property that reasonably would be priced at a minimum value?
- Is the \$1,000 offer contingent upon certain of type of listing – exclusive? open? – 30 day listing term or minimum of six months?
- When is the termination date of the inducement? – 30 days from when?
- What about current clients? – will the offer be available to them as well?

Deception does not mean intentional deception – if the inducement has limitations, the limitations must be clearly set out in the advertisement or the agency risks having an open-ended inducement that must be honored.

Advertising standards are simple – All brokerage-related advertising in the agency's name and on the agency's behalf. Ads that mislead or misinform the public about who they are doing business with, the terms or conditions of the sale or the brokerage service to be provided are prohibited – regardless of the advertising medium.

INACTIVE LICENSES

The Licensing Division has received a number of calls from panicked inactive licensees who are under the impression that they will lose their license if they do not activate within a certain time.

We wish to set the record straight **There is no law or rule that requires an inactive licensee to activate the license or risk losing it.** An inactive broker or associate broker may maintain the license as inactive for as long as he/she wishes providing the license is renewed every two years. Renewing an inactive license involves simply returning the application and appropriate fee to the Real Estate Commission in a timely fashion. No continuing education is required to renew as inactive. Continuing education is required before activating an inactive license and that's where it gets confusing.

On September 18, 1999, a new law became effective that defines the number of continuing education hours required to activate an inactive license. The number of hours required increases incrementally for every two years of inactive status (see chart on page 1). If the license remains inactive for 6 or more years *AFTER* September 18, 1999, the licensee must pass a 50 question Maine law exam before activating the license. No continuing education is required after six years, just pass the Maine law exam. It is the licensee's choice as to whether to activate, the license may be continued as inactive for as long as the licensee wishes.

No inactive licensee, regardless of how long the license has been inactive, will have reached the 6 year mark until September 18, 2005 (6 years after the effective date of September 18, 1999).

If a licensee activates then decides to place it inactive again, the slate is wiped clean and the 6-year clock begins ticking anew on the day the change to inactive is effective.

Attention Licensees! Forms and applications may be downloaded from www.state.me.us/pfr/olr/categories/cat38.htm

CURRENT CASES

Karen L. Bivins, Deputy Director

On November 13, 2003 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Allen Bauer of Falmouth, Maine. Bauer is a designated broker who failed to notify the Director within 10 days of a conviction.

Bauer renewed his license in June 2002, certifying that he had not been convicted of a crime since his last renewal in June 2000. In August 2003 Bauer submitted an agency license application in which he provided information about a conviction in July 2001 for driving to endanger and refusal to sign a ticket.

Bauer was found in violation of 32 M.R.S.A. § 13195. He agreed to pay a fine of \$500.00.



2. Jeffrey M. Bayer of Portland, Maine. Bayer is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Bayer certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Bayer had completed only 3 clock hours of education prior to the renewal of his license.

Bayer was found in violation of 32 M.R.S.A. § 13067(1)(A). He agreed to pay a fine of \$800.00 and to submit documentation of his completion of 15 hours of approved continuing education with his next renewal.



3. Mark A. Beal of Bangor, Maine. Beal is an associate broker who failed to notify the Director within 10 days of a conviction.

Beal renewed his license in May 2003 and disclosed that he had been convicted of operating under the influence in July 2001.

Beal was found in violation of 32 M.R.S.A. § 13195. He agreed to pay a fine of \$200.00.



4. Dawn Belisle of Portland, Maine. Belisle is an associate broker who failed to act properly in the handling of an offer.

Belisle represented buyers who made an offer to purchase residential property listed with another agency. The offer gave the sellers until December 4th to accept, and included a closing date by January 12th. Because the sellers were in the process of divorcing and had a court date of January 4th, Belisle was asked to submit another offer from her buyer clients with a later time for performance by the sellers.

On December 18th, Belisle prepared another offer from her buyer clients that gave the sellers until January 4th to accept, and included a closing date of January 19th. She did not explain to her clients that although the sellers may have verbally agreed to the terms of the offer, there was no written acceptance at that point. Belisle then left for vacation and did not inform her buyer clients that she had not delivered their offer to the listing agent.

On December 28th Belisle called the listing agent about her clients' offer and learned that another offer had been received. Belisle was told that she should deliver her clients' offer for presentation. The sellers reviewed the offers and refused the offer from Belisle's clients. Belisle notified her clients, who thought they were under contract based on the previous verbal request for an extension of the time to perform.

Belisle was found in violation of 32 M.R.S.A. §§ 13067(1)(F), (G), (H), and 13274(B)(2). She agreed to pay a fine of \$2,000.00 and to complete a 3 hours educational course on fiduciary duty.



5. Ellen Mae Bunker of Rockland, Maine. Bunker is an associate broker who failed to complete 15 hours of continuing education prior to the expiration of her license.

As part of her license renewal application, Bunker certified that she had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Bunker had not completed the core course.

Bunker was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1) and (3). She agreed to pay a fine of \$500.00, to submit documentation of her completion of

the core course, and to submit documentation of completion of 15 hours of approved continuing education with her next license renewal application.



6. April J. Burnell of Lincoln, Maine. Burnell is a designated broker who failed to complete 15 hours of continuing education prior to the expiration of her license.

As part of her license renewal application, Burnell certified that she had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Burnell had not completed the core course.

Burnell was found in violation of 32 M.R.S.A. § 13067(1)(F) and 13197(1), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$500.00, to submit documentation of her completion of the core course, and to submit documentation of completion of 15 hours of approved continuing education with her next license renewal application.



7. Richard J. Elias of Fairfield, Maine. Elias is a designated broker who failed to complete 15 hours of continuing education prior to the expiration of his license.

As part of his license renewal application, Elias certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Elias had not completed the core course until after being notified of the audit and the need to complete the course.

Elias was found in violation of 32 M.R.S.A. §§ 13067(1)(F), 13197(1) and (3), and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$500.00 and to submit documentation of completion of 15 hours of approved continuing education with his next license renewal application.



8. Todd G. Harvey of Windham, Maine. Harvey is a designated broker who failed to notify the Director within 10 days of a conviction.

In 1998, 2000, and 2002 Harvey submitted license renewal applications and did not disclose any convictions. In

October 2003 Harvey notified the Director that he had been convicted in 1997 of driving to endanger.

Harvey was found in violation of 32 M.R.S.A. § 13195. He agreed to pay a fine of \$500.00.



9. Judith V. Kirk of Orono, Maine.

Kirk is a sales agent who failed to notify the Director within 10 days of a conviction.

Kirk has been licensed as a sales agent since August 2002. In August 2003 the Director received anonymously information about Kirk being convicted in May 2003 of criminal trespass and disorderly conduct. The Director contacted Kirk, who confirmed the information.

Kirk was found in violation of 32 M.R.S.A. § 13195. She agreed to pay a fine of \$200.00.



10. Melissa G. Medici of Portland, Maine. Medici is a sales agent who failed to disclose a criminal conviction. Medici stated on her sales agent license application that she had not been convicted of a crime by any court. After the license was issued, the Director learned that Medici had been convicted in 2002 of theft by unauthorized taking or transfer. After being contacted by the Director, Medici submitted an amendment to the application disclosing the conviction.

Medici was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). She agreed to pay a fine of \$400.00.



11. Michael D. Payne of Naples, Maine. Payne is a sales agent who failed to disclose criminal convictions. Payne stated on his sales agent license application that he had not been convicted of a crime by any court. After the license was issued, the Director learned that Payne had been convicted in 1998 of two counts of theft by unauthorized taking. After being contacted by the Director, Payne submitted an amendment to the application disclosing the convictions.

Payne was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$300.00.



12. Francois J. Rodrigue of Waterville, Maine. Rodrigue is a designated broker who failed to properly maintain the agency trust account.

A trust account audit and office

examination were conducted at Rodrigue's agency. The results found that Rodrigue failed to maintain records and supporting documents sufficient to verify the adequacy and proper use of the agency trust account; failed to maintain a trust account in the name of the agency as licensed; failed to consistently make earnest money deposits within 3 business days of acceptance of offers; deposited agency funds in the trust account, specifically a brokerage commission payment; failed to consistently use the trade name in brokerage documents; and adopted an agency policy which did not accurately reflect the particular brokerage relationships that are or can be practiced at the agency.

Rodrigue was found in violation of 32 M.R.S.A. §§ 13067(1)(F), 13176, 13178, 13277, and Chapter 320 Sections 1(B), 3(C), (D), (E), (F), and (G) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$1,000.00; to obtain the services of a certified public accountant to make a full accounting of trust money held by the agency; to complete an educational course; and to submit a revised agency policy.



13. Jerry B. Savitz of Northport, Maine. Savitz is a designated broker who failed to complete 15 hours of continuing education prior to the expiration of his license.

As part of his license renewal application, Savitz certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Savitz had completed only 12 clock hours of education prior to the renewal of his license.

Savitz was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He agreed to pay a fine of \$1,000.00; to submit documentation of completion of 3 hours of education; and to submit documentation of his completion of 15 hours of approved continuing education with his next renewal.



14. Gregory M. Stanley of Lincoln, Maine. Stanley is an associate broker who failed to disclose convictions.

Stanley stated on his associate broker license application that he had not been convicted of a crime by any court. After the license was issued, the Director learned that Stanley had been convicted

in 1981 of criminal mischief; in 1984 of theft by unauthorized taking or transfer; and in 1985 of assault. After being contacted by the Director, Stanley confirmed each of the convictions.

Stanley was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$500.00.



15. Cash C. Wiseman of Portland, Maine. Wiseman is a broker who failed to complete 15 hours of continuing education prior to the expiration of his license.

As part of his license renewal application, Wiseman certified that he had completed 15 hours of approved continuing education. Wiseman was selected by an audit of his continuing education but failed to respond to two notices of audit. After a hearing in the matter was scheduled, Wiseman provided to the Director continuing education certificates showing completion of 9 clock hours prior to the renewal of his license.

Wiseman was found in violation of 32 M.R.S.A. §§ 13067(1)(A), (D), (L) and 13197(1). He agreed to pay a fine of \$1,000.00; to a 30 day suspension of his license; and to submit documentation of his completion of 15 hours of approved continuing education with his next renewal.



On December 18, 2003 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Joan E. Maloney of Bath, Maine. Maloney is a real estate broker who failed to notify the Director within 10 days of a conviction. In November 2003, Maloney notified the Director of a conviction for driving to endanger in March 2000.

Maloney was found in violation of 32 M.R.S.A. § 13195. She agreed to pay a fine of \$300.00.



2. Marcel B. Poulin of Lewiston, Maine. Poulin is a broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Poulin certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Poulin had completed only 8 clock hours of educa-

tion prior to the renewal of his license.

Poulin was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and (H), and 13197(1). He agreed to pay a fine of \$900.00; to complete 7 clock hours of continuing education; and to submit documentation of his completion of 15 hours of approved continuing education with his next renewal.



3. Mary Jane Thibodeau of Scarborough, Maine. Thibodeau is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of her license.

As part of her license renewal application, Thibodeau certified that she had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Thibodeau had not completed any continuing education.

Thibodeau was found in violation of 32 M.R.S.A. §§ 13067(1)(A) and (D), and 13197(1). She agreed to a one year suspension of her license; to pay a fine of \$500.00; and to complete 15 hours of continuing education.



4. Daniel W. Vail of Portland, Maine. Vail is a sales agent who failed to disclose a criminal conviction on his license application. Vail stated on his sales agent license application that he had not been convicted of a crime by any court. After the license was issued, the Director learned that Vail had been convicted in 1994 of assault. After being contacted by the Director, Vail submitted an amendment to the application disclosing the conviction.

Vail was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$200.00.



On December 18, 2003 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Francis E. Carter of Winslow, Maine. Carter is a designated broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Carter certified that he had completed 15 hours of approved continuing education. After being selected for

audit, it was discovered that Carter had completed only 12 clock hours of continuing education prior to the renewal of his license.

Carter was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He was ordered to pay a fine of \$600.00.



2. Wayne E. Wilbur of Bangor, Maine. Wilbur is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Wilbur certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Wilbur had not completed the core course.

Wilbur was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He was ordered to pay a fine of \$500.00 and to submit documentation of his completion of 15 hours of approved continuing education with his next renewal.



On February 19, 2004 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Kenneth H. Beach of South Portland, Maine. Beach is a designated broker who conducted brokerage without being properly licensed.

Beach's agency license expired on April 5, 2003. In December 2003 Beach returned to the Commission the license of an agent who had been affiliated with his company. It was discovered that the agency was not properly licensed but had been conducting brokerage. Beach submitted a license application and a new license was issued on January 2, 2004.

Beach was found in violation of 32 M.R.S.A. § 13067(1)(K). He agreed to pay a fine of \$500.00.



2. John D. Colannino of Bangor, Maine. Colannino is an associate broker who improperly disclosed the terms of an offer.

Colannino represented the seller of a parcel of land. An offer was received from one buyer represented by a broker from another company, who requested permission to present the offer directly to the seller. A second offer was received from a customer of Colannino. A

conference call was arranged with the seller to discuss the offers.

Colannino told his customer about the conference call and received verbal permission to disclose the terms of the offer in the presence of the other broker. The seller also agreed to have the terms of the offer revealed to the other broker. However, Colannino did not obtain the written permission of his customer or the seller to disclose the terms of the customer's offer to the other broker. The seller considered both offers and accepted the offer from Colannino's customer.

Colannino was found in violation of 32 M.R.S.A. § 13067(1)(F) and Chapter 330 Section 13 of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$300.00.



3. Edwin W. Ecker, Jr. of Waldoboro, Maine. Ecker is a sales agent who failed to disclose a criminal conviction on his license application. Ecker stated on his sales agent license application that he had not been convicted of a crime by any court. After the license was issued, the Director learned that Ecker had been convicted in 1982 of criminal non-support. After being contacted by the Director, Ecker submitted an amendment to the application disclosing the conviction.

Ecker was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$200.00.



4. Harold W. Elliott of Scarborough, Maine. Elliott is a sales agent who failed to disclose criminal convictions on his license application. Elliott stated on his sales agent license application that he had been convicted in 1999 of assault and in 2003 of terrorizing. After the license was issued, the Director learned that Elliott had also been convicted in 1983 of disorderly conduct and in 1995 of criminal mischief. After being contacted by the Director, Elliott did not at first confirm that he had convictions in 1983 and 1985 which he had not disclosed, even though he had obtained his own criminal history report and knew that the convictions appeared on the report. Elliott subsequently submitted an amendment to the application disclosing the convictions.

Elliott was found in violation of 32 M.R.S.A. §§ 13067(1)(A) & (F), and 13191(1). He agreed to pay a fine of \$800.00.



5. Gary P. Howe of Bangor, Maine. Howe is a sales agent who failed to disclose criminal convictions on his license application. Howe stated on his sales agent license application that he had been convicted in 1990 of operating under the influence. After the license was issued, the Director learned that Howe had been convicted in 1981 of criminal mischief and in 1985 of criminal trespass. After being contacted by the Director, Howe submitted an amendment to the application disclosing the convictions.

Howe was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$200.00.



6. Shirley J. Melancon of New Portland, Maine. Melancon is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of her license.

As part of her license renewal application, Melancon certified that she had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Melancon had completed only 3 hours of continuing education prior to the renewal of her license.

Melancon was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). She agreed to pay a fine of \$800.00, to submit documentation of completion of 12 hours of education; and to submit documentation of her completion of 15 hours of approved continuing education with her next renewal.



7. Sandra S. Murray of Scarborough, Maine. Murray is a designated broker who allowed a sales agent to conduct brokerage after the expiration of the license.

The license of a sales agent affiliated with Murray's company expired on April 6, 2003. Murray instructed the licensee to cease conducting brokerage until she obtained an associate broker license. The licensee completed an associate broker license application on May 19, 2003, but it was not received at the Commission office. Neither the licensee nor Murray checked with the Commission to determine whether the application had been received or if the license had been issued. The licensee conducted brokerage on behalf of the company without being properly licensed.

Murray was found in violation of 32 M.R.S.A. § 13067(1)(I)(2). She agreed to pay a fine of \$500.00.



8. Matthew Pooler of Augusta, Maine. Pooler is an inactive broker who failed to notify the Director of a conviction within 10 days. Pooler was convicted of operating under the influence in May 2003. He did not notify the Director until December 2003.

Pooler was found in violation of 32 M.R.S.A. § 13195. He agreed to pay a fine of \$200.00.



9. Laurie A. Ridlon of South Portland, Maine. Ridlon is an associate broker who failed to disclose a criminal conviction on her license application. Ridlon included with her associate broker license application information regarding two convictions in 1992 for which she had received a pardon in 2001. After the license was issued, the Director learned that Ridlon had been convicted in 1991 of theft by unauthorized taking. After being contacted by the Director, Ridlon submitted an amendment to the application disclosing the conviction.

Ridlon was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). She agreed to pay a fine of \$200.00.



10. Anne M. Worth of East Waterboro, Maine. Worth is a designated broker who represented a seller in a transaction. She listed for sale the seller's parcel of land on which was being installed a modular home. On the property disclosure form, Worth stated that the property was served by a "brand new" septic system. No septic system had been installed.

A purchase and sale agreement was entered into by the seller and buyers who were represented by an agent from another company. Several issues developed and the sale did not close. A dispute about the earnest money deposit developed and Worth had difficulty getting the seller to contact her about the matter. Worth sent a letter to the attorney representing the seller, along with a check from her trust account for the amount of the deposit, informing the attorney that the seller would not sign a release form and she wanted the attorney to deal with the deposit dispute. Worth did not have authorization from either the seller or the

buyers to give the deposit to the seller's attorney.

The parties eventually resolved their dispute and the deposit was paid to the buyers. During the investigation, it was discovered that Worth's trust account was not properly identified as a real estate trust account.

Worth was found in violation of 32 M.R.S.A. §§ 13067(1)(D) & (F), and Chapter 320 Sections 3(A) & (I) of the Maine Real Estate Commission Rules. She agreed to pay a fine of \$2,000.00.



On February 19, 2004 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. William P. Mouflouze of Portsmouth, New Hampshire. Mouflouze is a designated broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Mouflouze certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Mouflouze had completed only 9 hours of continuing education prior to the renewal of his license.

Mouflouze was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He was ordered to pay a fine of \$900.00 and to submit documentation of completion of 6 clock hours of continuing education.



2. Walter A. Thompson, Jr. of Bangor, Maine. Thompson is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Thompson certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Thompson had completed only 3 hours of continuing education prior to the renewal of his license.

Thompson was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13197(1). He was ordered to pay a fine of \$900.00, to submit documentation of completion of 12 clock hours of continuing education, and to submit documentation of completion of 15 hours of approved continuing education with his next renewal.



On March 18, 2004 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Timothy J. Fontneau of Rochester, New Hampshire. Fontneau is an associate broker who failed to complete 15 hours of approved continuing education prior to the expiration of his license.

As part of his license renewal application, Fontneau certified that he had completed 15 hours of approved continuing education. After being selected for audit, it was discovered that Fontneau had not completed the core course prior to the expiration of his license.

Fontneau was found in violation of 32 M.R.S.A. § 13067(1)(F) and Chapter 370 Section 10(A) of the Maine Real Estate Commission Rules. He agreed to pay a fine of \$500.00 and submit documentation of completion of 15 hours of approved continuing education with his next renewal.



2. Susanna P. Smith of Scarborough, Maine. Smith is a sales agent who failed to disclose a criminal conviction on her license application. Smith stated on her license application that she had not been convicted of a crime by any court. After the license was issued, the Director learned that Smith had been convicted in 1996 of theft by unauthorized taking or transfer. After being contacted by the Director, Smith submitted an amendment to her application disclosing the conviction.

Smith was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). She agreed to pay a fine of \$200.00.



3. Angela M. Sweetser of Portland, Maine. Sweetser is a sales agent who failed to disclose a criminal conviction on her license application. Sweetser stated on her license application that she had not been convicted by any court of any type of crime. After the license was issued, the Director learned that Sweetser had been convicted in 1991 of assault. After being contacted by the Director, Sweetser submitted an amendment to her application disclosing the conviction.

Sweetser was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). She agreed to pay a fine of \$200.00.



On March 18, 2004 the members of the Commission ratified their decisions reached after hearings involving the following licensees:

1. Christopher H. Longstaff of Portland, Maine. Longstaff is a sales agent who failed to disclose criminal convictions on his license application. Longstaff stated on his license application that he had not been convicted of a crime by any court. After the license was issued, the Director learned that Longstaff had been convicted in 1994 of operating under the influence, in 1995 of operating after suspension, in 1997 of criminal speeding, in 2000 of filing a false public report, and in 2002 of two counts of operating after suspension.

Longstaff was found in violation of 32 M.R.S.A. §§ 13067(1)(D) and (F), and 13191(1). He was ordered to pay a fine of \$2,000.00 and was placed on a licensing probationary status until July 15, 2005. Conditions of the probation are that Longstaff continue with the agency where he is currently affiliated, that he work with two specific licensees and have them sign all documents prepared by him, and to submit periodic reports from his designated broker.



2. Michael W. Pajak of Falmouth, Maine. Pajak is a sales agent who failed to disclose a criminal conviction on his license application. Pajak stated on his license application that he had been convicted of two operating under the influence charges. After the license was issued, the Director learned that Pajak had been convicted in 1979 of a shoplifting theft.

Pajak was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He was ordered to pay a fine of \$300.00.



On April 15, 2004 the members of the Commission accepted the following consent agreements entered into by the Director and various licensees:

1. Brad D. Bryce, Jr. of Portland, Maine. Bryce is a sales agent who failed to disclose a criminal conviction. Bryce stated on his sales agent license application that he had not been convicted by any court of any type of crime. After the license was issued, the Director learned that Bryce had been convicted in 1997 of theft by unauthorized taking or transfer.

After being contacted by the Director, Bryce submitted an amendment to the application disclosing the conviction.

Bryce was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$200.00.



2. Diane Moyer of Topsham, Maine. Moyer is an associate broker who provided incorrect disclosure information about a property she listed.

Moyer listed a residential property in Bowdoinham. Although Moyer knew that the town of Bowdoinham is not served by public sewer, she incorrectly completed the property disclosure form to say that the property was served by public sewer.

After the seller and a buyer entered into a purchase and sale agreement, it was discovered that the property was served by a private waste disposal system. Moyer's agency arranged and paid for a septic system inspection, and it was determined that the existing system was not adequate. The sale did not close and subsequently Moyer and the agency paid the seller \$3,000.00 toward the cost of installing a new system.

At some point Moyer prepared a new property disclosure form with correct information about the waste disposal system. However, the internet advertising for the property continued to show the incorrect information for several weeks before it was amended to show the correct information.

Moyer was found in violation of 32 M.R.S.A. §§ 13067(1)(D) and (G). She agreed to pay a fine of \$500.00.



3. Bradley A. Ross of Augusta, Maine. Ross is a sales agent who failed to disclose a criminal conviction. Ross stated on his sales agent license application that he had not been convicted by any court of any type of crime. After the license was issued, the Director learned that Ross had been convicted in 1974 of simple larceny and in 1985 of theft of services. After being contacted by the Director, Ross submitted an amendment to the application disclosing the convictions.

Ross was found in violation of 32 M.R.S.A. §§ 13067(1)(F) and 13191(1). He agreed to pay a fine of \$200.00.



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